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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,190	02/24/2004	Stephan Durach	080437.53140US	1099

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CROWELL & MORING LLP  
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EXAMINER

TRAN, CON P

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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07/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/784,190	Applicant(s) DURACH ET AL.	
	Examiner Con P. Tran	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/24/04, 3/8/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of Applicants' claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. GERMANY 103 08 414.2 , filed on February 27, 2003.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by Breed et al. U.S. Patent 6,553,296 (hereinafter, "Breed").

Regarding **claim 1**, Breed teaches method for controlling an acoustic system in a vehicle (see Figs. 1A, 2A, 2B, and respective portions of the specification), in which the interior is monitored by an interior sensing system (transmitter/receiver 110, 114, Fig. 1A; col. 16, lines 10-45), at least the position of an occupant's head in the interior is recognized by an object recognition system from the data supplied by the interior sensing system (col. 18, lines 14-30) and a setting of the acoustic system that is

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optimized for the occupant is performed automatically (noise cancellation, col. 27, lines 40-65; col. 40, lines 63-67) by a control unit as a function of seat occupancy (col. 39, lines 15-22; col. 40, lines 5-13) and the position of the occupant's head in the interior (col. 18, lines 14-30; col. 40, lines 45-65).

Regarding **claim 2**, Breed teaches method as claimed in claim 1, wherein the optimized setting of the acoustic system is performed by the control unit as a function of the position of the head of at least one of a plurality of occupants (child, passengers; see Figs. 1A, 2A, 2B; col. 30, lines 33-4).

Regarding **claim 3**, Breed teaches method as claimed in claim 1, wherein active noise suppression is performed by the control unit so that the active site of the noise suppression follows an instantaneous position of the occupant's head (using several beam, fastest tracking, col. 37, lines 59-67; noise cancellation, col. 40, lines 44-50, lines 63-67).

Regarding **claim 4**, Breed teaches method as claimed in claim 2, wherein active noise suppression is performed by the control unit so that the active site of the noise suppression follows an instantaneous position of at least one of the heads of the plurality of occupants (child, passengers, see Figs. 1A, 2A, 2B; col. 30, lines 33-4; using several beam, fastest tracking, col. 37, lines 59-67; noise cancellation, col. 40, lines 44-50, lines 63-67).

Regarding **claims 5-8**, these claims have similar limitations as Claims 1-3.  
Therefore, they are interpreted and rejected for the same reasons.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Con P. Tran whose telephone number is (571) 272-7532. The examiner can normally be reached on M - F (8:30 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Vivian C. Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cpt CPJ  
June 22, 2007

  
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SUPERVISOR/PATENT EXAMINER  
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